



Transgender Rights and Needs in Prison Facilities

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Executive Summary

In many cases, the prison experience of transgender individuals is unfortunately different from their cis-gender counterparts. Transgender prisoners' access to legal support decreased after the Prison Litigation Reform Act was enacted; this has led to a regressive prisoner-rights legislative environment when coupled with a lack of modern-day community understanding of transgender rights and needs. This imbalance of incarcerated-individuals treatment needs to be urgently addressed. Both an alteration to the Prison Litigation Reform Act and hiring transgender-rights educated prison guards and prison-adjacent decision-makers on transgender peoples' needs and rights would move towards a safer, more equitable prison environment. We recommend implementing a nationwide education program for prison guards in order to move toward this goal.

Background

Transgender individuals are inequitably targeted for abuse, violence, and discrimination in prison systems compared to their cisgender counterparts. According to the National Center for Transgender Equality, "Transgender inmates are 10 times more likely to be sexually assaulted by their fellow inmates and five times more likely to be sexually assaulted by staff". The Supreme Court has said that an excessive risk of abuse can be established when a prisoner belongs to "an identifiable group of prisoners who are frequently singled out for violent attacks by other inmates", including transgender people. According to TransEquity, it is incredibly difficult for transgender inmates to legally prove abuse, for, in order to win a case and advance reform, the inmate would need to prove "... not only that prison officials failed to take steps to stop or prevent abuse, but also that they knew that the abuse was likely to happen...". This is an advanced standard to meet in court; it is highly pertinent that legal action is taken rapidly to protect transgender inmates.

Options

1. *Adjust Prison Litigation Reform Act*

One policy option that would help institute transgender reform in prisons interstate is to adjust the Prison Litigation Reform Act. This law is regressive for transgender inmate rights because it makes their representation more difficult in a court of law. Previously, if attorneys win a case, they receive attorney fees. However, post-enacting the Prison Litigation Reform Act, it has inadvertently grown more difficult to fully compensate attorneys, which prevents prisoners from being able to access attorneys in the way they could previously. Lawyers hoping to represent inmates who were victims of crime and maltreatment aren't adequately paid, causing these inmates to receive insufficient representation. This bill requires a client to pay 150% of the maximum hourly rate if they win the case. As a result, a lack of resources (attorney access) is an invaluable resource to these inmates. The solution to this problem is to adjust this act to re-facilitate a legal process that provides financial support to attorneys that defend inmates who were victims of crimes while incarcerated.

2. *Increase Education Regarding Transgender People's Needs and Rights*

Our second policy option recommendation addresses a lack of education when it comes to prison decision-makers in regards to transgender people's needs and rights. Many prisons are in remote parts of their states, where there may not be sufficient enlightenment on LGBTQ education. In many cases, prison guards have a big influence on whether somebody gets sexually or physically assaulted through the practice of placing inmates near or isolated from each other. There need to be effective programs on education; our proposal is to incorporate a cross-state education program for prison guards that is required in order to work on-field. Through enhanced education, prison guards would be more likely to foster empathy and awareness of the direct impact their actions may have in the future. It is also a method of de-isolating transgender inmates, for inmates would have a clear source of protection if needed.

Recommendation

After weighing the pros and cons of both policy options, we posit that the incorporation of a cross-state education program for prison guards is the best solution. Not only would this implementation increase the awareness and knowledge of LGBTQ individuals and their lives, but it will also de-isolate Transgender inmates from the prison population by ensuring they have access

to welfare resources. Although updating the Prison Litigation Reform Act may create a new, positive legislative precedent, it is less feasible to adjust a significant piece of legislation that carries much weight on our modern-day prison reform laws.

Starting off small by implementing an interstate prison education program would regulate immediate issues that are taking place. For example, with this policy, guards and other prison employees will be taught about sexual abuse prevention, how to report safety violations in an efficient manner, and transgender health resources. The program would be mandatory for all prison employees, ensuring that transgender individuals have a source of protection from abuse by other inmate and have a safely-fostered environment in the prison. This education system (not just for guards, but also volunteers, mental health practitioners, investigators, and other prison employees) will create a safe and secure space for incarcerated transgender individuals to serve their time and be reimmersed with general society efficiently. Ultimately, this policy would be the most successful in increasing safety and respect for transgender prisoners across the country.

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